IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4544 OF 2004

Subhash Budhaji Naikdhure : Petitioner

V/s.

The Tahasildar, Deogad & Ors. : Respondents

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Mr.A.I.Patel with Ms Swati Sawant for the petitioner.

Mr.D.A.Patil, Asstt. Govt. Pleader, for the respondent nos.1 and 3.

Mr.G.R.Rege with Ms Leena R. Sawant for the respondent no.2.

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CORAM : S.A. BOBDE, J.

July 20, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Patil, learned Asstt. Govt. Pleader for the respondent nos.1 and 3 and Mr.Rege, learned counsel for the respondent no.2, appear and waive service of rule.

Heard by consent.

2. The petitioner Subhash Naikdhure is aggrieved by the order of the authorities under the Maharashtra Land Revenue Code holding that the cattle-shed constructed by him is not, in accordance with law. The authorities below

have acted on the complaint of the respondent no.2 who appears to be aggrieved by the effluent from the cattle-shed into his residence.

3. The matter has been examined at various stages. In the first instance, the Tahsildar, Deogad, on the basis of the reasons stated in the order such as absence of permission under the Village Panchayat Act, absence of access road, excessive construction on the plot and use of the farm house as a cattle-shed without obtaining permission for non-agricultural use, held that the cattle-shed was an unauthorised consruction. The petitioner appealed to the S.D.O., who allowed his appeal. The respondent then preferred appeal to the Addl. Collector, Sindhudurg, who set aside the appellate order. Against this appellate order, the petitioner preferred revision to the Addl. Commissioner, Konkan Division, Mumbai, who has upheld the order of the Addl. Collector, Sindhudurg.

4. I have heard both the learned counsel at length and it appears that there is no infirmity, jurisdictional or otherwise with the order of the Addl. Commissioner.

5. Mr.Patel, the learned counsel for the petitioner,

submitted that the cattle-shed is in existence from the year 1929 which is said to be apparent from the 7/12 extracts dated 30.4.2004. However, it is clear from the 7/12 extracts that the use of the land is shown as "Gharbhat". This term does not include a cattle-shed which is known as "gotha" in the area. The latter is also referred to in the orders. In fact, even the permission of the Gram Panchayat relied upon for the construction of the cattle-shed is in favour of one Krishnaji Sakharam Dhure and not the petitioner. The permission shows that the alleged cattle-shed was in existence prior to the so-called permission. The Addl. Commissioner has taken the view that there is no prior permission of the Gram Panchayat for construction of the cattle-shed. Even otherwise, it appears that the cattle-shed is illegal in view of the several illegalities particularised by the Tahsildar, Deogad, in his order dated 19.5.2001 referred to above and upheld by the higher authorities.

6. In this view of the matter, there is no merit in the petition which is hereby dismissed. The rule stands discharged.

7. The petitioner shall be entitled to apply for regularisation of the cattle-shed. Such an application,

if made, shall be dealt with, in accordance with law.

S.A. BOBDE, J.